IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.104 OF 2006

Shri Prabhakar M. Bidkar & Ors. ..Applicants.

V/s.

The Special Land Acquisition Officer & Ors. ..Respondents.

Mr.Prashant Kulkarni for applicants.

Mr.A.R.Patil, AGP for respondent Nos.1 and 2.

Mr.T.S.Ingale for respondent No.3.

CORAM: A.M.KHANWILKAR,J

DATE : JULY 7, 2006.

P.C. :

1. Heard counsel for the parties.

2. I see no reason to depart from the conclusion reached by the Special Land Acquisition Officer in taking the view that the reference instituted by the applicants was barred by limitation. It is not in dispute that the award was passed on 24th June, 2002. Notice under section 12(2) of the Land Acquisition Act was received by the claimants on 13th December, 2002. The applicants/claimants were obliged to file reference before 21st January, 2003 as per the statutory requirements. Instead, the same was filed on 18th February, 2003. Obviously, the reference

application was beyond the period of limitation.

3. To get over this position, counsel for the applicants submits that the applicants were informed about the passing of the award only by notice under section 12(2) received on 13th December, 2002. As the copy of the award was not forwarded alongwith the notice, applicants had to apply for the copy thereof, which application was made on 3rd January, 2003. The copy of the award was however, made available to the applicants on 16th January, 2003. The argument in substance, is that the period required for obtaining copy of the award after the date of the application will have to excluded while computing period of limitation. It is not possible to accept this submission. It is well settled that benefit of provision of Limitation Act cannot be availed in the proceedings governed by the provisions of Land Acquisition Act. **(see 2001(2) Mh.L.J.532, Nathuram Posu Thakur Vs. SLAO).**

4. Counsel for the applicants then submits that the requirement of service of notice under section 12(2) is not an empty formality. Notice should be accompanied by copy of the award, in absence of which it is not possible for the claimants to file

reference and till copy of award is physically handed over to the claimants, period of limitation cannot be reckoned. This argument, if accepted would be invoking the principles laid down in the provisions of Limitation Act to exclude the period for getting copy of the award, which has no application to the proceedings under the Land Acquisition Act.

5. Counsel for the respondents has justly relied on the decision of the Apex Court in the case of **Mahadeo B. Patil V/s. State of Maharashtra & Ors. reported in (2005)7 S.C.C. 440,** which clearly answers the issue against the applicants. Accordingly, this revision should fail. The same is rejected.